

The Resolution we are submitting today urges the President to issue a proclamation calling upon the people of the United States to observe the week of June 9, 2003, with appropriate recognition, programs, and activities to further ocean literacy, education, and exploration. During this week on Capitol Hill, I am pleased to be an Honorary Co-host of Capitol Hill Oceans Week, a series of events and discussions designed to facilitate awareness of the oceans within the Congress. As a country, we should use this week to further expand our awareness of the oceans and engage in discussions and activities that will help ocean resource conservation.

I would like to thank my fellow Senators who are joining me in this effort to establish National Oceans Week, and I hope that this week will help contribute to a better awareness of and appreciation for the oceans. It is through such efforts that ocean stewardship can expand and take hold as an important national ethic.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, I am proud to cosponsor this resolution with Senators SNOWE, HOLLINGS, and MCCAIN. In 1998 we recognized the International Year of the Oceans, and it is time we underscore the importance of oceans in our daily lives through an annual celebration of National Oceans Week. The global oceans need our attention now more than ever. Today, we are faced with the challenge of sustainably managing our interactions with the marine environment, in the face of increasing pressures from population growth and a global economy. While we have been making significant progress in this arena, there are constant reminders that we have not yet achieved our goal of supporting ocean-related industries while maintaining high ecological standards.

The recent oil spill of the Bouchard barge in Buzzard's Bay, MA, vividly demonstrates that we must be ever vigilant in striving for the balance between ecological protection and economic growth—as well as the need to balance competing economic interests—in this case, an important local seafood industry with our need for energy. Although we have seen a marked improvement in the safe marine transport of oil since the passage of the Oil Pollution Act in 1990, all possible care must be taken to ensure that we have a system in place that adequately protects our marine environment.

Marine fisheries are also a vitally important component of our coastal economies and culture, especially in the Bay State. We are making progress in restoring our overfished stocks to sustainable levels, and we are committed to staying the course to reduce mortality, improve water quality and restore habitat. But we must press forward to ensure all nations are pulling

their weight in providing sustainable fisheries management. Recent reports show international fleets have had a dramatic impact that appears to go largely unchecked. Living marine resources, particularly highly migratory species like tuna and swordfish, know no boundaries, and we cannot tolerate lawlessness by any nation in the management of these stocks.

The Marine Mammal Protection Act has proved to be a very successful conservation tool, bringing numerous species back from the brink of extinction. However, there is still much more to be done. I am particularly familiar with the example of the North Atlantic right whales, one of the most endangered species of marine mammals in the world, with a population of approximately 300 individuals. Unfortunately, our local New England waters are often the areas where these endangered whales literally collide with the fishing industry and the marine transportation industry. The plight of the right whales highlights the importance of working with a wide variety of interests to find solutions that will make a difference.

Congress has already asked a panel of experts to develop a plan of action for our oceans in the Oceans Act of 2000. This federal mandated U.S. Commission on Ocean Policy will help us understand what steps are needed to advance our knowledge and improve our management of the marine environment. Later this year, the Commission will make recommendations on how we can improve our ocean governance, investment and implementation, research, education and marine operations, and stewardship. Despite these great efforts, there is much more to do. Increased public attention to our Nation's ocean issues is essential if we are to make further headway. This is why, today, I am honored to join Senator SNOWE in introducing this resolution to declare the week of June 9, 2003, as National Oceans Week. •

#### AMENDMENTS SUBMITTED & PROPOSED

SA 847. Mr. KENNEDY (for himself, Mr. BROWNBAC, Mr. MCCAIN, Mr. REID, Mr. BINGAMAN, Mr. DURBIN, Ms. CANTWELL, Mr. LEAHY, Mr. SCHUMER, Mr. CORNYN, Mr. INHOFE, Mrs. CLINTON, Mr. KERRY, Mrs. BOXER, Mr. CORZINE, Mr. SUNUNU, and Mr. HAGEL) proposed an amendment to the bill H.R. 1588, To authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

SA 848. Mr. REID (for himself, Mr. MCCAIN, Mr. DORGAN, Mr. INHOFE, Mr. NELSON of Florida, Mr. JEFFORDS, Ms. COLLINS, Mr. EDWARDS, Mr. BINGAMAN, Mrs. MURRAY, Mr. BIDEN, Mrs. CLINTON, Ms. MURKOWSKI, Mrs. LINCOLN, Mr. GRAHAM of South Carolina, Mr. KERRY, and Mr. HAGEL) proposed an amendment to the bill H.R. 1588, supra.

SA 849. Mr. DORGAN (for himself, Mr. LOTT, Mr. DURBIN, Mrs. BOXER, Ms. SNOWE,

Mr. BINGAMAN, and Ms. MURKOWSKI) proposed an amendment to the bill H.R. 1588, supra.

SA 850. Mr. DOMENICI (for Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 851. Mr. BINGAMAN (for himself, Mr. SUNUNU, and Mrs. FEINSTEIN) proposed an amendment to amendment SA 850 proposed by Mr. DOMENICI (for Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) to the bill S. 14, supra.

SA 852. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 853. Mr. SCHUMER (for himself and Mrs. CLINTON) proposed an amendment to amendment SA 850 proposed by Mr. DOMENICI (for Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) to the bill S. 14, supra.

#### TEXT OF AMENDMENTS

SA 847. Mr. KENNEDY (for himself, Mr. BROWNBAC, Mr. MCCAIN, Mr. REID, Mr. BINGAMAN, Mr. DURBIN, Ms. CANTWELL, Mr. LEAHY, Mr. SCHUMER, Mr. CORNYN, Mr. INHOFE, Mrs. CLINTON, Mr. KERRY, Mrs. BOXER, Mr. CORZINE, Mr. SUNUNU, and Mr. HAGEL) proposed an amendment to the bill H.R. 1588, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert the following:

##### Subtitle F—Naturalization and Family Protection for Military Members

##### SEC. 661. SHORT TITLE.

This subtitle may be cited as the "Naturalization and Family Protection for Military Members Act of 2003".

##### SEC. 662. REQUIREMENTS FOR NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES OF THE UNITED STATES.

(a) REDUCTION OF PERIOD FOR REQUIRED SERVICE.—Section 328(a) of the Immigration and Nationality Act (8 U.S.C. 1439(a)) is amended by striking "three years" and inserting "2 years".

(b) PROHIBITION ON IMPOSITION OF FEES RELATING TO NATURALIZATION.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended—

(1) in section 328(b)—

(A) in paragraph (3)—

(i) by striking "honorable. The" and inserting "honorable (the)"; and

(ii) by striking "discharge." and inserting "discharge); and"; and

(B) by adding at the end the following:

"(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or for the issuance of a certificate of naturalization upon citizenship being granted to the applicant, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected."; and

(2) in section 329(b)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or for the issuance of a certificate of naturalization upon citizenship being granted to the applicant, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.".

(c) **NATURALIZATION PROCEEDINGS OVERSEAS FOR MEMBERS OF THE ARMED FORCES.**—Notwithstanding any other provision of law, the Secretary of Homeland Security, the Secretary of State, and the Secretary of Defense shall ensure that any applications, interviews, filings, oaths, ceremonies, or other proceedings under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) relating to naturalization of members of the Armed Forces are available through United States embassies, consulates, and as practicable, United States military installations overseas.

(d) **FINALIZATION OF NATURALIZATION PROCEEDINGS FOR MEMBERS OF THE ARMED FORCES.**—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall prescribe a policy that facilitates the opportunity for a member of the Armed Forces to finalize naturalization for which the member has applied. The policy shall include, for such purpose, the following:

(1) A high priority for grant of emergency leave.

(2) A high priority for transportation on aircraft of, or chartered by, the Armed Forces.

(e) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 328(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1439(b)(3)) is amended by striking "Attorney General" and inserting "Secretary of Homeland Security".

**SEC. 663. NATURALIZATION BENEFITS FOR MEMBERS OF THE SELECTED RESERVE OF THE READY RESERVE.**

Section 329(a) of the Immigration and Nationality Act (8 U.S.C. 1440(a)) is amended by inserting "as a member of the Selected Reserve of the Ready Reserve or" after "has served honorably".

**SEC. 664. EXTENSION OF POSTHUMOUS BENEFITS TO SURVIVING SPOUSES, CHILDREN, AND PARENTS.**

(a) **TREATMENT AS IMMEDIATE RELATIVES.**—

(1) **SPOUSES.**—Notwithstanding the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), in the case of an alien who was the spouse of a citizen of the United States at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, if the citizen

served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien (and each child of the alien) shall be considered, for purposes of section 201(b) of such Act, to remain an immediate relative after the date of the citizen's death, but only if the alien files a petition under section 204(a)(1)(A)(ii) of such Act within 2 years after such date and only until the date the alien remarries. For purposes of such section 204(a)(1)(A)(ii), an alien granted relief under the preceding sentence shall be considered an alien spouse described in the second sentence of section 201(b)(2)(A)(i) of such Act.

(2) **CHILDREN.**—

(A) **IN GENERAL.**—In the case of an alien who was the child of a citizen of the United States at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien shall be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status thereafter), but only if the alien files a petition under subparagraph (B) within 2 years after such date.

(B) **PETITIONS.**—An alien described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(3) **PARENTS.**—

(A) **IN GENERAL.**—In the case of an alien who was the parent of a citizen of the United States at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien shall be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status thereafter), but only if the alien files a petition under subparagraph (B) within 2 years after such date.

(B) **PETITIONS.**—An alien described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(C) **EXCEPTION.**—Notwithstanding section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), for purposes of this paragraph, a citizen described in subparagraph (A) does not have to be 21 years of age for a parent to benefit under this paragraph.

(b) **APPLICATIONS FOR ADJUSTMENT OF STATUS BY SURVIVING SPOUSES, CHILDREN, AND PARENTS.**—

(1) **IN GENERAL.**—Notwithstanding subsections (a) and (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), any alien who was the spouse, child, or parent of an alien described in paragraph (2), and who applied for adjustment of status prior to the death described in paragraph

(2)(B), may have such application adjudicated as if such death had not occurred.

(2) **ALIEN DESCRIBED.**—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by combat; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440-1).

(c) **SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENT ALIENS.**—

(1) **TREATMENT AS IMMEDIATE RELATIVES.**—

(A) **IN GENERAL.**—A spouse or child of an alien described in paragraph (3) who is included in a petition for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(2)) that was filed by such alien, shall be considered (if the spouse or child has not been admitted or approved for lawful permanent residence by such date) a valid petitioner for immediate relative status under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). Such spouse or child shall be eligible for deferred action, advance parole, and work authorization.

(B) **PETITIONS.**—An alien spouse or child described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(2) **SELF-PETITIONS.**—Any spouse or child of an alien described in paragraph (3) who is not a beneficiary of a petition for classification as a family-sponsored immigrant may file a petition for such classification under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) with the Secretary of Homeland Security, but only if the spouse or child files a petition within 2 years after such date. Such spouse or child shall be eligible for deferred action, advance parole, and work authorization.

(3) **ALIEN DESCRIBED.**—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by combat; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440-1).

(d) **PARENTS OF LAWFUL PERMANENT RESIDENT ALIENS.**—

(1) **SELF-PETITIONS.**—Any parent of an alien described in paragraph (2) may file a petition for classification under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), but only if the parent files a petition within 2 years after such date. For purposes of such Act, such petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)). Such parent shall be eligible for deferred action, advance parole, and work authorization.

(2) **ALIEN DESCRIBED.**—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by combat; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440-1).

(e) **ADJUSTMENT OF STATUS.**—Notwithstanding subsections (a) and (c) of section 245

of the Immigration and Nationality Act (8 U.S.C. 1255), an alien physically present in the United States who is the beneficiary of a petition under paragraph (1), (2)(B), or (3)(B) of subsection (a), paragraph (1)(B) or (2) of subsection (c), or subsection (d)(1) of this section, may apply to the Secretary of Homeland Security for adjustment of status to that of an alien lawfully admitted for permanent residence.

(f) **WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.**—In determining the admissibility of any alien accorded an immigration benefit under this section, the ground for inadmissibility specified in section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) shall not apply, and notwithstanding any other provision of law, the Secretary of Homeland Security may waive paragraph (6)(A), (7), and (9)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) with respect to such an alien if the alien establishes exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation.

(g) **BENEFITS TO SURVIVORS; TECHNICAL AMENDMENT.**—Section 329A of the Immigration and Nationality Act (8 U.S.C. 1440-1) is amended—

(1) by striking subsection (e); and

(2) by striking "Attorney General" each place that term appears and inserting "Secretary of Homeland Security".

(h) **TECHNICAL AND CONFORMING AMENDMENTS.**—Section 319(d) of the Immigration and Nationality Act (8 U.S.C. 1430(d)) is amended—

(1) by inserting ", child, or parent" after "surviving spouse";

(2) by inserting ", parent, or child" after "whose citizen spouse"; and

(3) by striking "who was living" and inserting "who, in the case of a surviving spouse, was living".

#### SEC. 665. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect as if enacted on September 11, 2001.

**SA 848.** Mr. REID (for himself, Mr. MCCAIN, Mr. DORGAN, Mr. INHOFE, Mr. NELSON of Florida, Mr. JEFFORDS, Ms. COLLINS, Mr. EDWARDS, Mr. BINGAMAN, Mrs. MURRAY, Mr. BIDEN, Mrs. CLINTON, Ms. MURKOWSKI, Mrs. LINCOLN, Mr. GRAHAM of South Carolina, Mr. KERRY, and Mr. HAGEL) proposed an amendment to the bill H.R. 1588, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place in title VI, add the following:

#### SEC. \_\_\_\_ . FULL PAYMENT OF BOTH RETIRED PAY AND COMPENSATION TO DISABLED MILITARY RETIREES.

(a) **RESTORATION OF FULL RETIRED PAY BENEFITS.**—Section 1414 of title 10, United States Code, is amended to read as follows:

**"§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation**

**"(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.**—Except as provided in sub-

section (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38.

**"(b) SPECIAL RULE FOR CHAPTER 61 CAREER RETIREES.**—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

**"(c) EXCEPTION.**—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

**"(d) DEFINITIONS.**—In this section:

**"(1)** The term 'retired pay' includes retiree pay, emergency officers' retirement pay, and naval pension.

**"(2)** The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(13) of title 38."

**(b) REPEAL OF SPECIAL COMPENSATION PROGRAMS.**—Sections 1413 and 1413a of such title are repealed.

**(c) CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by striking the items relating to sections 1413, 1413a, and 1414 and inserting the following:

**"1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation."**

**(d) EFFECTIVE DATE.**—The amendments made by this section shall take effect on—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).

**(e) PROHIBITION ON RETROACTIVE BENEFITS.**—No benefits may be paid to any person by reason of section 1414 of title 10, United States Code, as amended by subsection (a), for any period before the effective date applicable under subsection (d).

**SA 849.** Mr. DORGAN (for himself, Mr. LOTT, Mr. DURBIN, Mrs. BOXER, Ms. SNOWE, Mr. BINGAMAN, and Ms. MURKOWSKI) proposed an amendment to the bill H.R. 1588, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place in the bill, add the following:

#### SEC. \_\_\_\_ . REPEAL OF AUTHORITIES AND REQUIREMENTS ON BASE CLOSURE ROUND IN 2005.

**(a) REPEAL.**—The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687

note) is amended by striking sections 2906A, 2912, 2913, and 2914.

**(b) CONFORMING AMENDMENT.**—Section 2904(a)(3) of that Act is amended by striking "in the 2005 report" and inserting "in a report submitted after 2001".

**SA 850.** Mr. DOMENICI (for Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

At the end of title V, add the following:

#### Subtitle \_\_\_\_ —General Provisions Relating to Renewable Fuels

##### SEC. 5 \_\_\_\_ 1. RENEWABLE CONTENT OF GASOLINE.

**(a) IN GENERAL.**—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (r); and

(2) by inserting after subsection (n) the following:

**"(o) RENEWABLE FUEL PROGRAM.**—

**"(1) DEFINITIONS.**—In this section:

**"(A) CELLULOSIC BIOMASS ETHANOL.**—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

**"(i)** dedicated energy crops and trees;

**"(ii)** wood and wood residues;

**"(iii)** plants;

**"(iv)** grasses;

**"(v)** agricultural residues;

**"(vi)** fibers;

**"(vii)** animal wastes and other waste materials; and

**"(viii)** municipal solid waste.

**"(B) RENEWABLE FUEL.**—

**"(i) IN GENERAL.**—The term 'renewable fuel' means motor vehicle fuel that—

**"(I)(aa)** is produced from grain, starch, oilseeds, or other biomass; or

**"(bb)** is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

**"(II)** is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

**"(ii) INCLUSION.**—The term 'renewable fuel' includes—

**"(I)** cellulosic biomass ethanol; and

**"(II)** biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f))).

**"(C) SMALL REFINERY.**—The term 'small refinery' means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

**"(2) RENEWABLE FUEL PROGRAM.**—

**"(A) REGULATIONS.**—

**"(i) IN GENERAL.**—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in Alaska and Hawaii), on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (B).

**"(ii) PROVISIONS OF REGULATIONS.**—Regardless of the date of promulgation, the regulations promulgated under clause (i)—

“(I) shall contain compliance provisions applicable to refiners, blenders, distributors, and importers, as appropriate, to ensure that the requirements of this paragraph are met; but

“(II) shall not—

“(aa) restrict cases in geographic areas in which renewable fuel may be used; or

“(bb) impose any per-gallon obligation for the use of renewable fuel.

“(iii) REQUIREMENT IN CASE OF FAILURE TO PROMULGATE REGULATIONS.—If the Administrator does not promulgate regulations under clause (i), the percentage of renewable fuel in gasoline sold or dispensed to consumers in the United States, on a volume basis, shall be 1.8 percent for calendar year 2005.

“(B) APPLICABLE VOLUME.—

“(i) CALENDAR YEARS 2005 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2005 through 2012 shall be determined in accordance with the following table:

Calendar year:	Applicable volume of renewable fuel (in billions of gallons):
2005 .....	2.6
2006 .....	2.9
2007 .....	3.2
2008 .....	3.5
2009 .....	3.9
2010 .....	4.3
2011 .....	4.7
2012 .....	5.0.

“(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

“(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

“(II) the ratio that—

“(aa) 5,000,000,000 gallons of renewable fuel; bears to

“(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

“(3) APPLICABLE PERCENTAGES.—

“(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2004 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate of the volumes of gasoline sold or introduced into commerce in the United States during the following calendar year.

“(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

“(i) IN GENERAL.—Not later than November 30 of each of calendar years 2005 through 2012, based on the estimate provided under subparagraph (A), the Administrator of the Environmental Protection Agency shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements of paragraph (2) are met.

“(ii) REQUIRED ELEMENTS.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

“(I) be applicable to refiners, blenders, and importers, as appropriate;

“(II) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce; and

“(III) subject to subparagraph (C)(i), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

“(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments—

“(i) to prevent the imposition of redundant obligations on any person specified in subparagraph (B)(ii)(I); and

“(ii) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under paragraph (9).

“(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallons of renewable fuel.

“(5) CREDIT PROGRAM.—

“(A) IN GENERAL.—The regulations promulgated under paragraph (2)(A) shall provide—

“(i) for the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2);

“(ii) for the generation of an appropriate amount of credits for biodiesel; and

“(iii) for the generation of credits by small refineries in accordance with paragraph (9)(C).

“(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

“(C) DURATION OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance—

“(i) subject to clause (ii), for the calendar year in which the credit was generated or the following calendar year; or

“(ii) if the Administrator promulgates regulations under paragraph (6), for the calendar year in which the credit was generated or any of the following 2 calendar years.

“(D) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—The regulations promulgated under paragraph (2)(A) shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements of paragraph (2) to carry forward a renewable fuel deficit on condition that the person, in the calendar year following the year in which the renewable fuel deficit is created—

“(i) achieves compliance with the renewable fuel requirement under paragraph (2); and

“(ii) generates or purchases additional renewable fuel credits to offset the renewable fuel deficit of the previous year.

“(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

“(A) STUDY.—For each of calendar years 2005 through 2012, the Administrator of the Energy Information Administration shall conduct a study of renewable fuel blending to determine whether there are excessive seasonal variations in the use of renewable fuel.

“(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator of the Environmental Protection Agency shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) is used during each of the 2 periods specified in subparagraph (D) of each subsequent calendar year.

“(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

“(i) less than 35 percent of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) has been used

during 1 of the 2 periods specified in subparagraph (D) of the calendar year; and

“(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

“(D) PERIODS.—The 2 periods referred to in this paragraph are—

“(i) April through September; and

“(ii) January through March and October through December.

“(E) EXCLUSION.—Renewable fuel blended or consumed in calendar year 2005 in a State that has received a waiver under section 209(b) shall not be included in the study under subparagraph (A).

“(7) WAIVERS.—

“(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under paragraph (2)—

“(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

“(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

“(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirements of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

“(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

“(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary of Energy shall conduct for the Administrator a study assessing whether the renewable fuel requirement under paragraph (2) will likely result in significant adverse impacts on consumers in 2005, on a national, regional, or State basis.

“(B) REQUIRED EVALUATIONS.—The study shall evaluate renewable fuel—

“(i) supplies and prices;

“(ii) blendstock supplies; and

“(iii) supply and distribution system capabilities.

“(C) RECOMMENDATIONS BY THE SECRETARY.—Based on the results of the study, the Secretary of Energy shall make specific recommendations to the Administrator concerning waiver of the requirements of paragraph (2), in whole or in part, to prevent any adverse impacts described in subparagraph (A).

“(D) WAIVER.—

“(i) IN GENERAL.—Not later than 270 days after the date of enactment of this paragraph, the Administrator shall, if and to the extent recommended by the Secretary of Energy under subparagraph (C), waive, in whole or in part, the renewable fuel requirement under paragraph (2) by reducing the national quantity of renewable fuel required under paragraph (2) in calendar 2005.

“(ii) NO EFFECT ON WAIVER AUTHORITY.—Clause (i) does not limit the authority of the Administrator to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7).

“(9) SMALL REFINERIES.—

“(A) TEMPORARY EXEMPTION.—

“(i) IN GENERAL.—The requirements of paragraph (2) shall not apply to small refineries until calendar year 2011.

“(ii) EXTENSION OF EXEMPTION.—

“(I) STUDY BY SECRETARY OF ENERGY.—Not later than December 31, 2007, the Secretary of Energy shall conduct for the Administrator a study to determine whether compliance with the requirements of paragraph (2) would impose a disproportionate economic hardship on small refineries.

“(II) EXTENSION OF EXEMPTION.—In the case of a small refinery that the Secretary of Energy determines under subclause (I) would be subject to a disproportionate economic hardship if required to comply with paragraph (2), the Administrator shall extend the exemption under clause (i) for the small refinery for a period of not less than 2 additional years.

“(B) PETITIONS BASED ON DISPROPORTIONATE ECONOMIC HARDSHIP.—

“(i) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Administrator for an extension of the exemption under subparagraph (A) for the reason of disproportionate economic hardship.

“(ii) EVALUATION OF PETITIONS.—In evaluating a petition under clause (i), the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study under subparagraph (A)(ii) and other economic factors.

“(iii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

“(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A), the regulations promulgated under paragraph (2)(A) shall provide for the generation of credits by the small refinery under paragraph (5) beginning in the calendar year following the date of notification.

“(D) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of paragraph (2) if the small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A).

“(10) ETHANOL MARKET CONCENTRATION ANALYSIS.—

“(A) ANALYSIS.—

“(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, and annually thereafter, the Federal Trade Commission shall perform a market concentration analysis of the ethanol production industry using the Herfindahl-Hirschman Index to determine whether there is sufficient competition among industry participants to avoid price-setting and other anticompetitive behavior.

“(ii) SCORING.—For the purpose of scoring under clause (i) using the Herfindahl-Hirschman Index, all marketing arrangements among industry participants shall be considered.

“(B) REPORT.—Not later than December 1, 2004, and annually thereafter, the Federal Trade Commission shall submit to Congress and the Administrator a report on the results of the market concentration analysis performed under subparagraph (A)(i).

“(p) RENEWABLE FUEL SAFE HARBOR.—

“(I) IN GENERAL.—

“(A) SAFE HARBOR.—Notwithstanding any other provision of Federal or State law, no renewable fuel (as defined in subsection (o)(1)) used or intended to be used as a motor vehicle fuel, nor any motor vehicle fuel containing renewable fuel, shall be deemed to be defective in design or manufacture by reason

of the fact that the fuel is, or contains, renewable fuel, if—

“(i) the fuel does not violate a control or prohibition imposed by the Administrator under this section; and

“(ii) the manufacturer of the fuel is in compliance with all requests for information under subsection (b).

“(B) SAFE HARBOR NOT APPLICABLE.—In any case in which subparagraph (A) does not apply to a quantity of fuel, the existence of a design defect or manufacturing defect with respect to the fuel shall be determined under otherwise applicable law.

“(2) EXCEPTION.—This subsection does not apply to ethers.

“(3) APPLICABILITY.—This subsection applies with respect to all claims filed on or after the date of enactment of this subsection.”

“(b) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking “or (n)” each place it appears and inserting “(n), or (o)”; and

(B) in the second sentence, by striking “or (m)” and inserting “(m), or (o)”; and

(2) in the first sentence of paragraph (2), by striking “and (n)” each place it appears and inserting “(n), and (o)”.’

(c) EXCLUSION FROM ETHANOL WAIVER.—Section 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

“(5) EXCLUSION FROM ETHANOL WAIVER.—

“(A) PROMULGATION OF REGULATIONS.—Upon notification, accompanied by supporting documentation, from the Governor of a State that the Reid vapor pressure limitation established by paragraph (4) will increase emissions that contribute to air pollution in any area in the State, the Administrator shall, by regulation, apply, in lieu of the Reid vapor pressure limitation established by paragraph (4), the Reid vapor pressure limitation established by paragraph (1) to all fuel blends containing gasoline and 10 percent denatured anhydrous ethanol that are sold, offered for sale, dispensed, supplied, offered for supply, transported, or introduced into commerce in the area during the high ozone season.

“(B) DEADLINE FOR PROMULGATION.—The Administrator shall promulgate regulations under subparagraph (A) not later than 90 days after the date of receipt of a notification from a Governor under that subparagraph.

“(C) EFFECTIVE DATE.—

“(i) IN GENERAL.—With respect to an area in a State for which the Governor submits a notification under subparagraph (A), the regulations under that subparagraph shall take effect on the later of—

“(I) the first day of the first high ozone season for the area that begins after the date of receipt of the notification; or

“(II) 1 year after the date of receipt of the notification.

“(ii) EXTENSION OF EFFECTIVE DATE BASED ON DETERMINATION OF INSUFFICIENT SUPPLY.—

“(I) IN GENERAL.—If, after receipt of a notification with respect to an area from a Governor of a State under subparagraph (A), the Administrator determines, on the Administrator’s own motion or on petition of any person and after consultation with the Secretary of Energy, that the promulgation of regulations described in subparagraph (A) would result in an insufficient supply of gasoline in the State, the Administrator, by regulation—

“(aa) shall extend the effective date of the regulations under clause (i) with respect to the area for not more than 1 year; and

“(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

“(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.”

## SEC. 5 2. RENEWABLE FUEL.

(a) IN GENERAL.—The Clean Air Act is amended by inserting after section 211 (42 U.S.C. 7411) the following:

### “SEC. 212. RENEWABLE FUEL.

“(a) DEFINITIONS.—In this section:

“(1) MUNICIPAL SOLID WASTE.—The term ‘municipal solid waste’ has the meaning given the term ‘solid waste’ in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

“(2) RFG STATE.—The term ‘RFG State’ means a State in which is located 1 or more covered areas (as defined in section 211(k)(10)(D)).

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of Energy.

“(b) SURVEY OF RENEWABLE FUEL MARKET.—

“(1) SURVEY AND REPORT.—Not later than December 1, 2006, and annually thereafter, the Administrator shall—

“(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

“(i) conventional gasoline containing ethanol;

“(ii) reformulated gasoline containing ethanol;

“(iii) conventional gasoline containing renewable fuel; and

“(iv) reformulated gasoline containing renewable fuel; and

“(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

“(2) RECORDKEEPING AND REPORTING REQUIREMENTS.—

“(A) IN GENERAL.—The Administrator may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate.

“(B) RELIANCE ON EXISTING REQUIREMENTS.—To avoid duplicative requirements, in carrying out subparagraph (A), the Administrator shall rely, to the maximum extent practicable, on reporting and record-keeping requirements in effect on the date of enactment of this section.

“(3) CONFIDENTIALITY.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

“(c) COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE LOAN GUARANTEE PROGRAM.—

“(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts.

“(2) REQUIREMENTS.—The Secretary may provide a loan guarantee under paragraph (1) to an applicant if—

“(A) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in paragraph (1);

“(B) the prospective earning power of the applicant and the character and value of the

security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

“(C) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

“(4) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

“(A) meet all applicable Federal and State permitting requirements;

“(B) are most likely to be successful; and

“(C) are located in local markets that have the greatest need for the facility because of—

“(i) the limited availability of land for waste disposal; or

“(ii) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

“(5) MATURITY.—A loan guaranteed under paragraph (1) shall have a maturity of not more than 20 years.

“(6) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under paragraph (1) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

“(7) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under paragraph (1) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

“(8) GUARANTEE FEE.—The recipient of a loan guarantee under paragraph (1) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

“(9) FULL FAITH AND CREDIT.—

“(A) IN GENERAL.—The full faith and credit the United States is pledged to the payment of all guarantees made under this subsection.

“(B) CONCLUSIVE EVIDENCE.—Any guarantee made by the Secretary under this subsection shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest.

“(C) VALIDITY.—The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

“(10) REPORTS.—Until each guaranteed loan under this subsection has been repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this subsection.

“(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

“(12) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a new loan guarantee under paragraph (1) terminates on the date that is 10 years after the date of enactment of this section.

“(d) AUTHORIZATION OF APPROPRIATIONS FOR RESOURCE CENTER.—There is authorized to be appropriated, for a resource center to further develop bioconversion technology using low-cost biomass for the production of ethanol at the Center for Biomass-Based Energy at the University of Mississippi and the University of Oklahoma, \$4,000,000 for each of fiscal years 2004 through 2006.

“(e) RENEWABLE FUEL PRODUCTION RESEARCH AND DEVELOPMENT GRANTS.—

“(1) IN GENERAL.—The Administrator shall provide grants for the research into, and development and implementation of, renewable

fuel production technologies in RFG States with low rates of ethanol production, including low rates of production of cellulosic biomass ethanol.

“(2) ELIGIBILITY.—

“(A) IN GENERAL.—The entities eligible to receive a grant under this subsection are academic institutions in RFG States, and consortia made up of combinations of academic institutions, industry, State government agencies, or local government agencies in RFG States, that have proven experience and capabilities with relevant technologies.

“(B) APPLICATION.—To be eligible to receive a grant under this subsection, an eligible entity shall submit to the Administrator an application in such manner and form, and accompanied by such information, as the Administrator may specify.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$25,000,000 for each of fiscal years 2004 through 2008.

“(f) CELLULOSIC BIOMASS ETHANOL CONVERSION ASSISTANCE.—

“(1) IN GENERAL.—The Secretary may provide grants to merchant producers of cellulosic biomass ethanol in the United States to assist the producers in building eligible production facilities described in paragraph (2) for the production of cellulosic biomass ethanol.

“(2) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility—

“(A) is located in the United States; and

“(B) uses cellulosic biomass feedstocks derived from agricultural residues or municipal solid waste.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection—

“(A) \$100,000,000 for fiscal year 2004;

“(B) \$250,000,000 for fiscal year 2005; and

“(C) \$400,000,000 for fiscal year 2006.”.

“(b) CONFORMING AMENDMENT.—The table of contents for the Clean Air Act (42 U.S.C. 7401 prec.) is amended by inserting after the item relating to section 211 the following:

“212. Renewable fuels.”.

#### **SEC. 5. 3. SURVEY OF RENEWABLE FUELS CONSUMPTION.**

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

“(m) SURVEY OF RENEWABLE FUELS CONSUMPTION.—

“(1) IN GENERAL.—In order to improve the ability to evaluate the effectiveness of the Nation's renewable fuels mandate, the Administrator shall conduct and publish the results of a survey of renewable fuels consumption in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses.

“(2) ELEMENTS OF SURVEY.—In conducting the survey, the Administrator shall collect information retrospectively to 1998, on a national basis and a regional basis, including—

“(A) the quantity of renewable fuels produced;

“(B) the cost of production;

“(C) the cost of blending and marketing;

“(D) the quantity of renewable fuels blended;

“(E) the quantity of renewable fuels imported; and

“(F) market price data.”.

#### **Subtitle —Federal Reformulated Fuels SEC. 5. 1. SHORT TITLE.**

This subtitle may be cited as the “Federal Reformulated Fuels Act of 2003”.

#### **SEC. 5. 2. LEAKING UNDERGROUND STORAGE TANKS.**

(a) USE OF LUST FUNDS FOR REMEDIATION OF CONTAMINATION FROM ETHER FUEL ADDI-

TIVES.—Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended—

(1) in paragraph (7)(A)—

(A) by striking “paragraphs (1) and (2) of this subsection” and inserting “paragraphs (1), (2), and (12)”;

(B) by inserting “and section 9010” before “if”; and

(2) by adding at the end the following:

“(12) REMEDIATION OF CONTAMINATION FROM ETHER FUEL ADDITIVES.—

“(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9013(1) to carry out corrective actions with respect to a release of methyl tertiary butyl ether or other ether fuel additive that presents a threat to human health, welfare, or the environment.

“(B) APPLICABLE AUTHORITY.—Subparagraph (A) shall be carried out—

“(i) in accordance with paragraph (2), except that a release with respect to which a corrective action is carried out under subparagraph (A) shall not be required to be from an underground storage tank; and

“(ii) in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).”.

(b) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by striking section 9010 and inserting the following:

#### **“SEC. 9010. RELEASE PREVENTION AND COMPLIANCE.**

“Funds made available under section 9013(2) from the Leaking Underground Storage Tank Trust Fund may be used for conducting inspections, or for issuing orders or bringing actions under this subtitle—

“(1) by a State (pursuant to section 9003(h)(7)) acting under—

“(A) a program approved under section 9004; or

“(B) State requirements regulating underground storage tanks that are similar or identical to this subtitle, as determined by the Administrator; and

“(2) by the Administrator, acting under this subtitle or a State program approved under section 9004.

#### **“SEC. 9011. AUTHORIZATION OF APPROPRIATIONS.**

“In addition to amounts made available under section 2007(f), there are authorized to be appropriated from the Leaking Underground Storage Tank Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986—

“(1) to carry out section 9003(h)(12), \$200,000,000 for fiscal year 2003, to remain available until expended; and

“(2) to carry out section 9010—

“(A) \$50,000,000 for fiscal year 2003; and

“(B) \$30,000,000 for each of fiscal years 2004 through 2008.”.

(c) TECHNICAL AMENDMENTS.—(1) Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by striking the item relating to section 9010 and inserting the following:

“Sec. 9010. Release prevention and compliance.

“Sec. 9011. Authorization of appropriations.”.

(2) Section 9001(3)(A) of the Solid Waste Disposal Act (42 U.S.C. 6991(3)(A)) is amended by striking “substances” and inserting “substances”.

(3) Section 9003(f)(1) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)(1)) is amended by striking “subsection (c) and (d) of this section” and inserting “subsections (c) and (d)”.

(4) Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended in

the second sentence by striking "referred to" and all that follows and inserting "referred to in subparagraph (A) or (B), or both, of section 9001(2).".

(5) Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended—

(A) in subsection (a), by striking "study taking" and inserting "study, taking";

(B) in subsection (b)(1), by striking "relevant" and inserting "relevant"; and

(C) in subsection (b)(4), by striking "Environmental" and inserting "Environmental".

### SEC. 5 3. RESTRICTIONS ON THE USE OF MTBE.

(a) FINDINGS.—Congress finds that—

(1) since 1979, methyl tertiary butyl ether (referred to in this section as "MTBE") has been used nationwide at low levels in gasoline to replace lead as an octane booster or anti-knocking agent;

(2) Public Law 101-549 (commonly known as the "Clean Air Act Amendments of 1990") (42 U.S.C. 7401 et seq.) established a fuel oxygenate standard under which reformulated gasoline must contain at least 2 percent oxygen by weight;

(3) at the time of the adoption of the fuel oxygenate standard, Congress was aware that—

(A) significant use of MTBE could result from the adoption of that standard; and

(B) the use of MTBE would likely be important to the cost-effective implementation of that standard;

(4) Congress is aware that gasoline and its component additives have leaked from storage tanks, with consequences for water quality;

(5) the fuel industry responded to the fuel oxygenate standard established by Public Law 101-549 by making substantial investments in—

(A) MTBE production capacity; and

(B) systems to deliver MTBE-containing gasoline to the marketplace;

(6) when leaked or spilled into the environment, MTBE may cause serious problems of drinking water quality;

(7) in recent years, MTBE has been detected in water sources throughout the United States;

(8) MTBE can be detected by smell and taste at low concentrations;

(9) while small quantities of MTBE can render water supplies unpalatable, the precise human health effects of MTBE consumption at low levels are yet unknown as of the date of enactment of this Act;

(10) in the report entitled "Achieving Clean Air and Clean Water: The Report of the Blue Ribbon Panel on Oxygenates in Gasoline" and dated September 1999, Congress was urged—

(A) to eliminate the fuel oxygenate standard;

(B) to greatly reduce use of MTBE; and

(C) to maintain the environmental performance of reformulated gasoline;

(11) Congress has—

(A) reconsidered the relative value of MTBE in gasoline; and

(B) decided to eliminate use of MTBE as a fuel additive;

(12) the timeline for elimination of use of MTBE as a fuel additive must be established in a manner that achieves an appropriate balance among the goals of—

(A) environmental protection;

(B) adequate energy supply; and

(C) reasonable fuel prices; and

(13) it is appropriate for Congress to provide some limited transition assistance—

(A) to merchant producers of MTBE who produced MTBE in response to a market created by the oxygenate requirement contained in the Clean Air Act (42 U.S.C. 7401 et seq.); and

(B) for the purpose of mitigating any fuel supply problems that may result from elimination of a widely-used fuel additive.

(b) PURPOSES.—The purposes of this section are—

(1) to eliminate use of MTBE as a fuel oxygenate; and

(2) to provide assistance to merchant producers of MTBE in making the transition from producing MTBE to producing other fuel additives.

(c) AUTHORITY FOR WATER QUALITY PROTECTION FROM FUELS.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended—

(1) in paragraph (1)(A)—

(A) by inserting "fuel or fuel additive or" after "Administrator any"; and

(B) by striking "air pollution which" and inserting "air pollution, or water pollution, that";

(2) in paragraph (4)(B), by inserting "or water quality protection," after "emission control,"; and

(3) by adding at the end the following:

"(5) RESTRICTIONS ON USE OF MTBE.—

"(A) IN GENERAL.—Subject to subparagraph (E), not later than 4 years after the date of enactment of this paragraph, the use of methyl tertiary butyl ether in motor vehicle fuel in any State other than a State described in subparagraph (C) is prohibited.

"(B) REGULATIONS.—The Administrator shall promulgate regulations to effect the prohibition in subparagraph (A).

"(C) STATES THAT AUTHORIZE USE.—A State described in this subparagraph is a State that submits to the Administrator a notice that the State authorizes use of methyl tertiary butyl ether in motor vehicle fuel sold or used in the State.

"(D) PUBLICATION OF NOTICE.—The Administrator shall publish in the Federal Register each notice submitted by a State under subparagraph (C).

"(E) TRACE QUANTITIES.—In carrying out subparagraph (A), the Administrator may allow trace quantities of methyl tertiary butyl ether, not to exceed 0.5 percent by volume, to be present in motor vehicle fuel in cases that the Administrator determines to be appropriate.

"(6) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—

"(A) IN GENERAL.—

"(i) GRANTS.—The Secretary of Energy, in consultation with the Administrator, may make grants to merchant producers of methyl tertiary butyl ether in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of—

"(i) iso-octane or alkylates, unless the Administrator, in consultation with the Secretary of Energy, determines that transition assistance for the production of iso-octane or alkylates is inconsistent with the criteria specified in subparagraph (B); and

"(ii) any other fuel additive that meets the criteria specified in subparagraph (B).

"(B) CRITERIA.—The criteria referred to in subparagraph (A) are that—

"(i) use of the fuel additive is consistent with this subsection;

"(ii) the Administrator has not determined that the fuel additive may reasonably be anticipated to endanger public health or the environment;

"(iii) the fuel additive has been registered and tested, or is being tested, in accordance with the requirements of this section; and

"(iv) the fuel additive will contribute to replacing quantities of motor vehicle fuel rendered unavailable as a result of paragraph (5).

"(C) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—

"(i) is located in the United States; and

"(ii) produced methyl tertiary butyl ether for consumption in nonattainment areas during the period—

"(I) beginning on the date of enactment of this paragraph; and

"(II) ending on the effective date of the prohibition on the use of methyl tertiary butyl ether under paragraph (5).

"(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph \$250,000,000 for each of fiscal years 2004 through 2007."

(d) NO EFFECT ON LAW CONCERNING STATE AUTHORITY.—The amendments made by subsection (c) have no effect on the law in effect on the day before the date of enactment of this Act concerning the authority of States to limit the use of methyl tertiary butyl ether in motor vehicle fuel.

### SEC. 5 4. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

(a) ELIMINATION.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking "(including the oxygen content requirement contained in subparagraph (B))";

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(B) in paragraph (3)(A), by striking clause (v); and

(C) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i); and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and

(II) by redesignating clause (iii) as clause (ii).

(2) APPLICABILITY.—The amendments made by paragraph (1) apply—

(A) in the case of a State that has received a waiver under section 209(b) of the Clean Air Act (42 U.S.C. 7543(b)), beginning on the date of enactment of this Act; and

(B) in the case of any other State, beginning 270 days after the date of enactment of this Act.

(b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking "Within 1 year after the enactment of the Clean Air Act Amendments of 1990," and inserting the following:

"(A) IN GENERAL.—Not later than November 15, 1991,"; and

(2) by adding at the end the following:

"(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSIONS REDUCTIONS FROM REFORMULATED GASOLINE.—

"(i) DEFINITION OF PADD.—In this subparagraph the term 'PADD' means a Petroleum Administration for Defense District.

"(ii) REGULATIONS CONCERNING EMISSIONS OF TOXIC AIR POLLUTANTS.—Not later than 270 days after the date of enactment of this subparagraph, the Administrator shall establish by regulation, for each refinery or importer (other than a refiner or importer in a State that has received a waiver under section 209(b) with respect to gasoline produced for use in that State), standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refiner or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refiner or importer during calendar years 1999 and 2000



(as determined on the basis of data collected by the Administrator with respect to the refiner or importer).

“(iii) STANDARDS APPLICABLE TO SPECIFIC REFINERIES OR IMPORTERS.—

“(I) APPLICABILITY OF STANDARDS.—For any calendar year, the standards applicable to a refiner or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refiner or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refiner or importer during calendar years 1999 and 2000.

“(II) APPLICABILITY OF OTHER STANDARDS.—For any calendar year, the quantity of gasoline produced or distributed by a refiner or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for emissions of toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

“(iv) CREDIT PROGRAM.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

“(v) REGIONAL PROTECTION OF TOXICS REDUCTION BASELINES.—

“(I) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

“(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 1999 and 2000; and

“(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

“(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS REDUCTIONS.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 1999 and 2000, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

“(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

“(bb) promulgate revisions to the regulations promulgated under clause (ii), to take effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii)(II), all reformulated gasoline produced or distributed at each refiner or importer shall meet the standards applicable under clause (iii)(I) beginning not later than April 1 of the calendar year following publication of the report under subclause (I) and in each calendar year thereafter.

“(vi) REGULATIONS TO CONTROL HAZARDOUS AIR POLLUTANTS FROM MOTOR VEHICLES AND MOTOR VEHICLE FUELS.—Not later than July 1, 2004, the Administrator shall promulgate final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph).”.

(c) COMMINGLING.—

(I) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended by adding at the end the following:

“(11) COMMINGLING.—The regulations under paragraph (I) shall permit the commingling at a retail station of reformulated gasoline containing ethanol and reformulated gasoline that does not contain ethanol if, each time such commingling occurs—

“(A) the retailer notifies the Administrator before the commingling, identifying the exact location of the retail station and the specific tank in which the commingling will take place; and

“(B) the retailer certifies that the reformulated gasoline resulting from the commingling will meet all applicable requirements for reformulated gasoline, including content and emission performance standards.”

(d) CONSOLIDATION IN REFORMULATED GASOLINE REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(e) SAVINGS CLAUSE.—

(I) IN GENERAL.—Nothing in this section or any amendment made by this section affects or prejudices any legal claim or action with respect to regulations promulgated by the Administrator before the date of enactment of this Act regarding—

(A) emissions of toxic air pollutants from motor vehicles; or

(B) the adjustment of standards applicable to a specific refinery or importer made under those regulations.

(2) ADJUSTMENT OF STANDARDS.—

(A) APPLICABILITY.—The Administrator may apply any adjustments to the standards applicable to a refinery or importer under subparagraph (B)(iii)(I) of section 211(k)(1) of the Clean Air Act (as added by subsection (b)(2)), except that—

(i) the Administrator shall revise the adjustments to be based only on calendar years 1999 and 2000;

(ii) any such adjustment shall not be made at a level below the average percentage of reductions of emissions of toxic air pollutants for reformulated gasoline supplied to PADD I during calendar years 1999 and 2000; and

(iii) in the case of an adjustment based on toxic air pollutant emissions from reformulated gasoline significantly below the national annual average emissions of toxic air pollutants from all reformulated gasoline—

(I) the Administrator may revise the adjustment to take account of the scope of the prohibition on methyl tertiary butyl ether imposed by paragraph (5) of section 211(c) of the Clean Air Act (as added by section 203(c)); and

(II) any such adjustment shall require the refiner or importer, to the maximum extent practicable, to maintain the reduction achieved during calendar years 1999 and 2000 in the average annual aggregate emissions of toxic air pollutants from reformulated gasoline produced or distributed by the refiner or importer.

**SEC. 5 5. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.**

Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(I) in paragraph (2)—

(A) by striking “may also” and inserting “shall, on a regular basis,”; and

(B) by striking subparagraph (A) and inserting the following:

“(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and”;

(2) by adding at the end the following:

“(4) STUDY ON CERTAIN FUEL ADDITIVES AND BLENDSTOCKS.—

“(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall—

“(i) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of increased use of, and the feasibility of using as substitutes for methyl tertiary butyl ether in gasoline—

“(I) ethyl tertiary butyl ether;

“(II) tertiary amyl methyl ether;

“(III) di-isopropyl ether;

“(IV) tertiary butyl alcohol;

“(V) other ethers and heavy alcohols, as determined by then Administrator;

“(VI) ethanol;

“(VII) iso-octane; and

“(VIII) alkylates; and

“(ii) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of the adjustment for ethanol-blended reformulated gasoline to the volatile organic compounds performance requirements that are applicable under paragraphs (1) and (3) of section 211(k); and

“(iii) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the studies under clauses (i) and (ii).

“(B) CONTRACTS FOR STUDY.—In carrying out this paragraph, the Administrator may enter into 1 or more contracts with non-governmental entities such as—

“(i) the national energy laboratories; and

“(ii) institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).”.

**SEC. 5 6. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.**

Section 211 of the Clean Air Act (42 U.S.C. 7545) (as amended by section 5 1(a)) is amended by inserting after subsection (p) the following:

“(q) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

“(1) ANTI-BACKSLIDING ANALYSIS.—

“(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this paragraph, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by the Reliable Fuels Act.

“(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

“(2) EMISSIONS MODEL.—For the purposes of this subsection, as soon as the necessary data are available, the Administrator shall develop and finalize an emissions model that reasonably reflects the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2006.”.

**SEC. 5 7. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.**

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended—



(1) by striking “(6) OPT-IN AREAS.—(A) Upon” and inserting the following:

“(6) OPT-IN AREAS.—

“(A) CLASSIFIED AREAS.—

“(i) IN GENERAL.—Upon”;

(2) in subparagraph (B), by striking “(B) If” and inserting the following:

“(ii) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE REFORMULATED GASOLINE.—If”;

(3) in subparagraph (A)(ii) (as redesignated by paragraph (2))—

(A) in the first sentence, by striking “subparagraph (A)” and inserting “clause (i)”;

and

(B) in the second sentence, by striking “this paragraph” and inserting “this subparagraph”;

(4) by adding at the end the following:

“(B) OZONE TRANSPORT REGION.—

“(i) APPLICATION OF PROHIBITION.—

“(I) IN GENERAL.—On application of the Governor of a State in the ozone transport region established by section 184(a), the Administrator, not later than 180 days after the date of receipt of the application, shall apply the prohibition specified in paragraph (5) to any area in the State (other than an area classified as a marginal, moderate, serious, or severe ozone nonattainment area under subpart 2 of part D of title I) unless the Administrator determines under clause (iii) that there is insufficient capacity to supply reformulated gasoline.

“(II) PUBLICATION OF APPLICATION.—As soon as practicable after the date of receipt of an application under subclause (I), the Administrator shall publish the application in the Federal Register.

“(ii) PERIOD OF APPLICABILITY.—Under clause (i), the prohibition specified in paragraph (5) shall apply in a State—

“(I) commencing as soon as practicable but not later than 2 years after the date of approval by the Administrator of the application of the Governor of the State; and

“(II) ending not earlier than 4 years after the commencement date determined under subclause (I).

“(iii) EXTENSION OF COMMENCEMENT DATE BASED ON INSUFFICIENT CAPACITY.—

“(I) IN GENERAL.—If, after receipt of an application from a Governor of a State under clause (i), the Administrator determines, on the Administrator’s own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient capacity to supply reformulated gasoline, the Administrator, by regulation—

“(aa) shall extend the commencement date with respect to the State under clause (ii)(I) for not more than 1 year; and

“(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

“(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.”.

#### SEC. 5\_8. FEDERAL ENFORCEMENT OF STATE FUELS REQUIREMENTS.

Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended—

(1) by striking “(C) A State” and inserting the following:

“(C) AUTHORITY OF STATE TO CONTROL FUELS AND FUEL ADDITIVES FOR REASONS OF NECESSITY.—

“(i) IN GENERAL.—A State”;

(2) by adding at the end the following:

“(ii) ENFORCEMENT BY THE ADMINISTRATOR.—In any case in which a State prescribes and enforces a control or prohibition under clause (i), the Administrator, at the request of the State, shall enforce the control or prohibition as if the control or prohibition had been adopted under the other provisions of this section.”.

tion had been adopted under the other provisions of this section.”.

#### SEC. 5\_9. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) REQUIRED ELEMENTS.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to the consumer;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals (including the protection of children, pregnant women, minority or low-income communities, and other sensitive populations);

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refiners;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refiners, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while protecting and improving air quality at the national, regional, and local levels, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply; and

(F) the feasibility of providing incentives, and the need for the development of national standards necessary, to promote cleaner burning motor vehicle fuel.

(b) REPORT.—

(1) IN GENERAL.—Not later than June 1, 2007, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—The report shall contain recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) REQUIRED CONSIDERATIONS.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) CONSULTATION.—In developing the report, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers;

(C) State and local air pollution control regulators;

(D) public health experts;

(E) motor vehicle fuel producers and distributors; and

(F) the public.

**SA 851.** Mr. BINGAMAN (for himself, Mr. SUNUNU, and Mrs. FEINSTEIN) proposed an amendment to amendment SA 850 proposed by Mr. DOMENICI (for Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 18, after line 15, insert the following:

“(11) SIGNIFICANT PRICE INCREASE OR SUPPLY INTERRUPTION.—

“(A) SUSPENSION OF REQUIREMENTS.—In addition to the authority of the Administrator to waive the requirements of paragraph (2) under paragraphs (7) and (8), and to extend the exemption from paragraph (2) under paragraph (9), the President, acting through the Secretary of Energy, may suspend the requirements of paragraph (2) in any Petroleum Administration for Defense District, in whole or in part, in the event the Secretary of Energy determines that—

“(i) application of the requirements of paragraph (2) in the District will result, or has resulted, in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more; or

“(ii) a significant interruption in the supply of renewable fuel in the District will result, or has resulted, in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more.

“(B) DURATION OF SUSPENSION.—A suspension granted under subparagraph (A) shall terminate after 30 days, but may be renewed by the Secretary of Energy for additional 30-day periods if he determines that the significant price increase or significant supply interruption persists.”.

**SA 852.** Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, add the following:

#### Subtitle I—Miscellaneous

#### SEC. 1195. CERTAIN STEAM GENERATORS OR OTHER GENERATING BOILERS USED IN NUCLEAR FACILITIES AND CERTAIN REACTOR VESSEL HEADS USED IN SUCH FACILITIES.

(a) IN GENERAL.—

(1) Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended by striking “12/31/2006” and inserting “12/31/2012”.

(2) Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

<p>“9902.84.03 Reactor vessel heads for nuclear reactors (provided for in subheading 8401.40.00) .....</p>	<p>Free</p>	<p>No change</p>	<p>No change</p>	<p>On or before 12/31/2012”.</p>
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(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to goods entered, or withdrawn from warehouse, for consumption on or after January 1, 2003.

(2) RETROACTIVE APPLICATION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (4), the entry of any article—

(A) that was made on or after January 1, 2003; and

(B) to which duty-free treatment would have applied if the amendment made by this section had been in effect on the date of such entry, shall be liquidated or reliquidated as if such duty-free treatment applied, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(3) ENTRY.—As used in this subsection, the term “entry” includes a withdrawal from warehouse for consumption.

(4) REQUESTS.—Liquidation or reliquidation may be made under paragraph (2) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

**SA 853.** Mr. SCHUMER (for himself and Mrs. CLINTON) proposed an amendment to amendment SA 850 proposed by Mr. DOMENICI (for Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 4, strike lines 6 through 15 and insert the following:

“(i) PROMULGATION.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in Petroleum Administration for Defense Districts I, IV, and V), on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (B).

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COCHRAN. Mr. President, I announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on June 12, 2003 in SR-328A at 10:00 a.m. The purpose of this hearing is to discuss the United States Department of Agriculture's (USDA) implementation of the Agricultural Risk Protection Act of 2000 and related crop insurance issues.

### PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. COLEMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold a hearing entitled “Patient Safety: Instilling

Hospitals with a Culture of Continuous Improvement.” The Subcommittee intends to examine the progress made and obstacles that remain in the health care industry in terms of patient safety through better management, reducing costs and increasing quality.

The hearing will take place on Wednesday, June 11, 2003, at 9 a.m., in Room 342 of the Dirksen Senate Office Building. For further information, please contact Joseph V. Kennedy of the Subcommittee staff at 224-3721.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEES ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, June 4, 2003, at 9:30 a.m. on FCC Oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 4, 2003 at 9:30 a.m. on hold a hearing on Iraq Stabilization and Reconstruction.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, June 4, 2003, at 9:30 a.m. for a hearing entitled “Transforming the Department of Defense Personnel System: Finding the Right Approach.”

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON INDIAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, June 4, 2003 at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on Proposals to Amend the Indian Reservation Roads Program—S. 281, the Indian Tribal Surface Transportation Improvement Act of 2003, and S. 725, the Tribal Transportation Program Improvement Act of 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON INDIAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, June 4, 2003 at 2:00 p.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on Impacts on Tribal Fish and Wildlife Management Programs in the Pacific Northwest.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Com-

mittee on the Judiciary be authorized to meet to conduct a hearing on “Solving the Asbestos Litigation Crisis: S. 1125, the Fairness in Asbestos Injury Resolution Act of 2003” on Wednesday, June 4, 2003, at 10 a.m., in the Hart Senate Office Building Room 216.

Witness List: Professor Laurence H. Tribe, Ralph S. Tyler, Professor of Constitutional Law, Harvard Law School, Cambridge, MA; Jennifer L. Biggs, Tillinghast-Towers Perrin, St. Louis, MO; Dr. Mark A. Peterson, Legal Analysis Systems, Thousands Oaks, CA; Fred Dunbar, Senior Vice President, National Economic Research Associates, New York, NY; Professor Eric D. Green, Boston University School of Law, Boston, MA; Robert Harwick, Chief Economist, Insurance Information Institute, New York, NY; Dr. James D. Crapo, M.D., Department of S/M Pulmonary Sciences/Critical Care Medicine, National Jewish Medical Research Center, Denver, CO; Dr. Laura Stewart Welsh, M.D., Medical Director, Center to Protect Workers Rights, Silver Spring, MD; and Dr. John E. (Jack) Parker, M.D., Department of Medicine, University of West Virginia, Morgantown, WV.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate for a hearing entitled “SBA Reauthorization: Programming for Success” and other matters on Wednesday, June 4, 2003, beginning at 2 p.m. in room 428A of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, June 4 at 10 a.m. to receive testimony regarding S. 391, the Wild Sky Wilderness Act of 2003; S. 1003, to clarify the intent of Congress with respect to the continued use of established commercial outfitter hunting camps on the Salmon River; H.R. 417, to revoke a public land order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California; and S. 924—to authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Ms. STABENOW. Mr. President, I ask unanimous consent that Oliver Kim, a fellow in my office, be granted floor privileges today.